

# Notice of Allowability

Application No.

07/205419

Applicant(s)

CABILLY ET AL.

Examiner

PHILLIP GAMBEL

Art Unit

1644

25/J

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address--

All claims being allowable, PROSECUTION ON THE MERITS IS (OR REMAINS) CLOSED in this application. If not included herewith (or previously mailed), a Notice of Allowance and Issue Fee Due or other appropriate communication will be mailed in due course. THIS NOTICE OF ALLOWABILITY IS NOT A GRANT OF PATENT RIGHTS. This application is subject to withdrawal from issue at the initiative of the Office or upon petition by the applicant. See 37 CFR 1.313 and MPEP 1308.

1. ☒ This communication is responsive to 7/25/01, 9/13/01, 10/4/01
2. ☒ The allowed claim(s) is/are 101-132, 135-138 RENUMBERED 1-36
3. ☒ The drawings filed on 10/1/01 are acceptable as formal drawings.
4. ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All b) ☐ Some\* c) ☐ None of the:
1. ☐ Certified copies of the priority documents have been received.
2. ☐ Certified copies of the priority documents have been received in Application No. \_\_\_\_\_
3. ☐ Copies of the certified copies of the priority documents have been received in this national stage application from the International Bureau (PCT Rule 17.2(a)).

\* Certified copies not received: \_\_\_\_\_

5. ☐ Acknowledgement is made of a claim for domestic priority under 35 U.S.C. § 119(e).

Applicant has THREE MONTHS FROM THE "MAILING DATE" of this communication to file a reply complying with the requirements noted below. Failure to timely comply will result in ABANDONMENT of this application. THIS THREE-MONTH PERIOD IS NOT EXTENDABLE FOR SUBMITTING NEW FORMAL DRAWINGS, OR A SUBSTITUTE OATH OR DECLARATION. This three-month period for complying with the REQUIREMENT FOR THE DEPOSIT OF BIOLOGICAL MATERIAL is extendable under 37 CFR 1.136(a).

6. ☐ Note the attached EXAMINER'S AMENDMENT or NOTICE OF INFORMAL APPLICATION (PTO-152) which gives reason(s) why the oath or declaration is deficient. A SUBSTITUTE OATH OR DECLARATION IS REQUIRED.
7. ☐ Applicant MUST submit NEW FORMAL DRAWINGS
- (a) ☐ including changes required by the Notice of Draftperson's Patent Drawing Review( PTO-948) attached
- 1) ☐ hereto or 2) ☐ to Paper No. \_\_\_\_\_
- (b) ☐ including changes required by the proposed drawing correction filed \_\_\_\_\_, which has been approved by the examiner.
- (c) ☐ including changes required by the attached Examiner's Amendment / Comment or in the Office action of Paper No. \_\_\_\_\_

Identifying indicia such as the application number (see 37 CFR 1.84(c)) should be written on the drawings. The drawings should be filed as a separate paper with a transmittal letter addressed to the Official Draftsperson.

8. ☐ Note the attached Examiner's comment regarding REQUIREMENT FOR THE DEPOSIT OF BIOLOGICAL MATERIAL.

Any reply to this letter should include, in the upper right hand corner, the APPLICATION NUMBER (SERIES CODE / SERIAL NUMBER). If applicant has received a Notice of Allowance and Issue Fee Due, the ISSUE BATCH NUMBER and DATE of the NOTICE OF ALLOWANCE should also be included.

## Attachment(s)

- 1 ☐ Notice of References Cited (PTO-892)
- 2 ☐ Notice of Informal Patent Application (PTO-152)
- 3 ☐ Notice of Draftperson's Patent Drawing Review (PTO-948)
- 4 ☐ Interview Summary (PTO-413), Paper No. \_\_\_\_\_
- 5 ☒ Information Disclosure Statements (PTO-1449), Paper No. \_\_\_\_\_
- 6 ☒ Examiner's Amendment/Comment
- 7 ☐ Examiner's Comment Regarding Requirement for Deposit of Biological Material
- 8 ☒ Examiner's Statement of Reasons for Allowance
- 9 ☐ Other

25/I

Serial No. 07/205419  
Art Unit 1644

1

### DETAILED ACTION

1. The location of your application in the PTO has changed. To aid in correlating any papers for this application, all further correspondence regarding this application should be directed to Art Unit 1644, Technology Center 1600.
2. Applicant's amendment, filed 10/1/01 (Paper No. 24), has been entered.  
Claims 133-134 have been canceled. Claims 1-100 have been canceled previously.  
Claims 101, 1104, 108-11, 115, 118, 121, 122, 127-130 and 132 have been amended.  
Claims 135-138 have been added.

### EXAMINER'S AMENDMENT

3. An Examiner's Amendment to the record appears below. Should the changes and/or additions be unacceptable to applicant, an amendment may be filed as provided by 37 C.F.R. § 1.312. To ensure consideration of such an amendment, it **MUST** be submitted no later than the payment of the Issue Fee.
4. Page 9, line 30 of the specification has been amended by replacing "Figure 2" with -- Figures 2A-B --.
5. Page 10, line 1 of the specification has been amended by replacing "Figure 4" with -- Figures 4A-C --.
6. Page 10, line 4 of the specification has been amended by replacing "Figure 5" with -- Figures 5A-B --.

### REASONS FOR ALLOWANCE

7. The following is an Examiner's Statement of Reasons for Allowance:

Upon consideration of U.S.C. § 146 in Genentech, Inc. v. Celltech Therapeutics, Ltd., No. C98-3926 MMC, 2001 U.S. Dist. LEXIS 3489 (N.D. Cal. Mar. 16, 2001) and the subsequent final Order After District Court Judgment by the Board of Interferences, dated 7/25/01; the pending claims are deemed free of the prior art. Accordingly, the pending claims are deemed allowable

### EXAMINER'S COMMENTS

8. Applicant's submissions on the Information Disclosure Statements, filed 9/13/01 (Paper No. 20) and 10/1/01 (Paper No. 21), have been considered. However, certain citations, drawn to affidavits, declarations, legal document and grant proposals, have been crossed out, as they are not deemed appropriate to be printed on the U.S. Patent.
9. Any comments considered necessary by applicant must be submitted no later than the payment of the Issue Fee and, to avoid processing delays, should preferably **accompany** the Issue Fee. Such submissions should be clearly labeled "Comments on Statement of Reasons for Allowance."

Serial No. 07/205419  
Art Unit 1644

2

9. Any inquiry concerning this communication or earlier communications from the examiner should be directed to Phillip Gambel whose telephone number is (703) 308-3997. The examiner can normally be reached Monday through Thursday from 7:30 am to 6:00 pm. A message may be left on the examiner's voice mail service. If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Christina Chan can be reached on (703) 308-3973. Any inquiry of a general nature or relating to the status of this application should be directed to the Technology Center 1600 receptionist whose telephone number is (703) 308-0196.

Papers related to this application may be submitted to Technology Center 1600 by facsimile transmission. Papers should be faxed to Technology Center 1600 via the PTO Fax Center located in Crystal Mall 1. The faxing of such papers must conform with the notice published in the Official Gazette, 1096 OG 30 (November 15, 1989). The CM1 Fax Center telephone number is (703) 305-3014.



Phillip Gambel, Ph.D.  
Primary Examiner  
Technology Center 1600  
October 5, 2001